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December 16, 2020

Honorable Alvin K. Hellerstein
United States District Judge
United States District Court,
Southern District of New York
500 Pearl Street, Room 1050
New York, New York 10007-1312

*The trial is adjourned until
October 18, 2020 at 10:00am. The
final PTC shall take place on Oct 12,
2021 at 2:30p.m. Time is excluded;
in the interest of justice.*
x Alvin K. Hellerstein

RE: **United States v. David Smothermon 19 Cr. 382 (AKH)**

12-17-2020

Dear Judge Hellerstein:

I write to request an adjournment of the final pretrial conference date and jury trial date in Mr. Smothermon's case. The final pretrial conference is currently set for March 3, 2021, and the trial is set for March 8, 2021. I have conferred with Assistant United States Attorney Katherine Reilly, and the Government has no objection to the adjournment. The parties respectfully request that both dates be rescheduled to a date in October, 2021.

The pandemic has significantly impeded counsel's ability to have in-person meetings with Mr. Smothermon – Mr. Smothermon cares for infirm parents and a child with physical challenges – and other witnesses. As a result, effective trial preparation is nearly impossible. The ongoing pandemic poses continued obstacles to effective trial preparation, the conduct of a jury trial, and to the logistics involved in Mr. Smothermon, his family, the defense team and witnesses traveling from Houston, Texas. Therefore, it seems prudent to both the defense and the government to adjourn the current trial dates until November, 2021.

In the event that the Court does reschedule the trial date in this case, Mr. Smothermon agrees to the exclusion of time under the Speedy Trial Act ("STA"),

18 U.S.C. § 3161(h)(7)(A), from March 8, 2021, until the new trial date set by the Court. The interests of justice served by the scheduling of a November, 2021 trial date outweigh the interests of the defendant and the public in a speedy trial in light of the COVID-19 pandemic, the limitations on the conduct of jury trials, and the ability to effectively prepare for jury trials.

Accordingly, as set forth above, the parties respectfully request that the Court adjourn the final pre-trial conference scheduled for March 3, 2021, schedule a trial in this matter for October, 2021, and exclude time under the Speedy Trial Act from March 8, 2021, until the new trial date.

Sincerely,

George D. Murphy, Jr.